

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GEORGE T. HAWES, THIRD SET
CAPITAL LLC, and ROSS PIRASTEH,

Plaintiff,

v.

KABANI & COMPANY, INC., and HAMID
KABANI, an individual,

Defendant.

NO. C15-1956RSL

ORDER GRANTING MOTION TO
CONTINUE TRIAL DATE

This matter comes before the Court on “Defendants’ Motion to Continue Trial Date.” Dkt. # 33. Having reviewed the materials submitted by the parties, and the remainder of the record, the Court finds as follows.

Trial in this matter is currently set for March 6, 2017. Dkt. # 31 at 1. Defendants initially sought a June 2017 trial date, while plaintiffs requested a January 2017 trial date. Dkt. # 30 at 6. Following the Court’s order setting the trial date, defendants properly contacted judicial assistant Teri Roberts to inform her of the conflict between the trial date and defendants’ professional obligations. Dkt. # 31 at 2 (“If the trial date assigned to this matter creates an irreconcilable conflict, counsel must notify Teri Roberts, the judicial assistant, . . . within 10 days of the date of this Order and must set forth the exact nature of the conflict.”); 35 at 2 (“On the afternoon of Tuesday, March 14, 2016, I called Ms. Roberts to notify her that Defendants have a conflict with the March 6, 2017 trial date because Defendants are accountants, and the trial date fell during tax season.”). Defendants contacted plaintiffs, who would not agree to move the trial date, and this

1 motion followed. Dkt. # 35 at 2.

2 The Court's scheduling order "may be modified only for good cause and with the judge's
3 consent." Fed. R. Civ. P. 16(b)(4). The "good cause" inquiry "primarily considers the diligence
4 of the party seeking the amendment." Johnson v. Mammoth Recreations, Inc., 975 F.2d 604,
5 609 (9th Cir. 1992). The Court may modify the schedule "'if it cannot reasonably be met despite
6 the diligence of the party seeking the extension.'" Id. (quoting Fed. R. Civ. P. 16 advisory
7 committee's notes). The "focus of the inquiry is upon the moving party's reasons for seeking the
8 modification" but "the existence or degree of prejudice to the party opposing the modification
9 might supply additional reasons to deny a motion" Id.

10 The Court finds that there is good cause to modify the scheduling order to move the trial
11 date to June 2017. Defendants have been diligent in seeking this modification well in advance
12 of the currently-set trial date and in accordance with the Court's directions in the order setting
13 the trial date. While defendants should have identified their conflicts during tax season in the
14 joint status report, they acted quickly to address the oversight once it became apparent. Dkt.
15 # 14 (Order) at 4 ("Identify all calendaring conflicts that should be considered when setting a
16 trial date."); Dkt. # 38 at 5 ("In hindsight, this information also should have been included in the
17 Joint Status Report. As it was not, Defendants have complied with the procedure specifically set
18 out in the Court's Minute Order Setting Trial Date."). In any case, it is not reasonable to expect
19 defendants, who prepare corporate reports and tax returns for individuals and corporations, to
20 prepare for and attend trial in the month that some corporate tax filings and 10-Ks are due and in
21 the month before individual filings are due. See Dkt. # 34 (Declaration of Abdul Hamid Kabani)
22 at 1-2. Although not the key inquiry, the Court has considered plaintiffs' asserted prejudice –
23 less effective evidence and a greater risk of being unable to collect on a judgment rendered in
24 their favor – and finds that the risk of prejudice due to a three-month extension is minimal.

25 For the foregoing reasons, the Court GRANTS defendants' motion to continue the trial
26 date (Dkt. # 33). The Court will issue a revised case management order reflecting the new trial
27 date of June 5, 2017.

28 ORDER - 2

1 DATED this 19th day of May, 2016.

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4 Robert S. Lasnik
5 United States District Judge
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